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OFFICE OF PETITIONS

In Application of :
Asaka, et al. :
Application No.: 10/781,820 : **ON PETITION**
Filed: February 20, 2004 :
Attorney Docket No.: H64-163097M/MNN :
For: BELT UNIT OF
ELECTROPHOTOGRAPHIC PRINTING
APPARATUS

This is a decision on the petition under 37 CFR 1.181, filed September 7, 2006, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the non-final Office action, mailed November 30, 2005, which set an extendable three (3) month period for reply. No reply being received, the Office contended that this application became abandoned on March 1, 2006. A Notice of Abandonment was mailed on July 7, 2006.

Petitioners allege that the November 30, 2005 non-final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have proven non-receipt. Practitioner and Mary C. Gibb, Manager of the Docketing Department in the law firm of McGinn Intellectual Property Law Group, PLLC, have attested to a fruitless search of the file jacket and docket records. Petitioner has referenced docket records where the non-received Office communication would have been entered had it been received.

Furthermore, there was an irregularity in the mailing of the November 30, 2005 non-final Office action. The correspondence in question was **returned** to the Office on December 1, 2005.

The petition is granted, the holding of abandonment is withdrawn, and the July 7, 2006 Notice of Abandonment is vacated.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2852 for the re-mailing of the November 30, 2005 non-final Office action with a new period for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions